

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Alexander Gomez,
 Plaintiff,
 -against-
 Cirlio Lozada and Amigos Restaurant, Inc.,
 Defendants.

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1:24-cv-03020 (JLR) (SDA)

ORDER

STEWART D. AARON, United States Magistrate Judge:

The Court is in receipt of the status letter filed by Plaintiff at ECF No. 31. In light of Plaintiff's his intention to file a renewed motion for default judgment, the Court deems Plaintiff's prior motion filed at ECF No. 22 MOOT. The Clerk of Court is respectfully directed to terminate the gavel at ECF No. 22. Plaintiff shall file his renewed motion for default against Defendant Amigos Restaurant, Inc. ("Amigos") no later than February 4, 2025.

Plaintiff's motion shall include the elements of each asserted cause of action and shall demonstrate how Plaintiff's allegations establish Amigos's liability as to each. *See, e.g., LG Capital Funding, LLC v. FLASR, Inc.*, 422 F. Supp. 3d 611, 623 (E.D.N.Y. 2018) ("With respect to liability, a defendant's default does no more than concede the complaint's factual allegations; it remains the plaintiff's burden to demonstrate that those uncontested allegations, without more, establish the defendant's liability on each asserted cause of action.").

In addition, Plaintiff shall file Proposed Findings of Fact and Conclusions of Law concerning all damages and any other relief that Plaintiff seeks from Amigos. The submission shall contain a concluding paragraph that succinctly summarizes what damage amount (or other monetary relief) is being sought, including the exact dollar amount. Plaintiff's Proposed Findings of Fact

should specifically tie the proposed damages figure to the legal claim(s) on which liability has been established; should demonstrate how Plaintiff arrived at the proposed damages figure; and should be supported by one or more affidavits, which may attach any documentary evidence establishing the proposed damages. Each Proposed Finding of Fact shall be followed by a citation to the paragraphs of the affidavit(s) and or page of documentary evidence that supports each such Proposed Finding.¹ In lieu of conclusions of law, Plaintiff may submit a memorandum of law setting forth the legal principles applicable to Plaintiff's claim or claims for damages (including but not limited to the legal basis for any claim for interest or attorneys' fees).

The Court hereby notifies the parties that it may conduct the damages inquest based solely upon the written submissions of the parties. See *Bricklayers & Allied Craftworkers Local 2, Albany, N.Y. Pension Fund v. Moulton Masonry & Const., LLC*, 779 F.3d 182, 189 (2d Cir. 2015) (quoting *Action S.A. v. Marc Rich & Co.*, 951 F.2d 504, 508 (2d Cir. 1991)); *Cement & Concrete Workers Dist. Council Welfare Fund, Pension Fund, Annuity Fund, Educ. & Training Fund & Other Funds v. Metro Found. Contractors Inc.*, 699 F.3d 230, 234 (2d Cir. 2012) (citation omitted). To the extent that any party seeks an evidentiary hearing on the issue of damages, such party must set forth in its submission the reason why the inquest should not be conducted based upon the written submissions alone, including a description of what witnesses would be called to testify at a hearing and the nature of the evidence that would be submitted.

¹ Any request for attorneys' fees must be supported by contemporaneous time records showing, for each attorney, the date of service, the hours expended, and the nature of the work performed. Counsel should also provide the number of years they have been admitted to the bar and their hourly rate. Finally, the Conclusions of Law shall include a paragraph or paragraphs setting forth the legal basis for any requested award of attorneys' fees, including why, if applicable, the number of attorneys involved are entitled to fees.

It is further ORDERED that, no later than February 4, 2025, Plaintiff shall serve his motion papers, along with a copy of this Order, on Amigos and file proof of service on the docket.

Amigos shall send to Plaintiff's counsel and file with the Court its response, if any, to Plaintiff's submissions no later than February 20, 2025. Upon receipt, if any response from Amigos, Plaintiff's counsel shall promptly file such response to the ECF docket.

SO ORDERED.

Dated: New York, New York
 January 6, 2025

Stewart D. Aaron

STEWART D. AARON
United States Magistrate Judge